

REMARKS

The Office Action of April 21, 2005, was received and its contents carefully reviewed. Claims 147-249 are currently pending. Claims 1-146 were previously canceled. Applicants note that the present application was classified by the Office in class 705, subclass 27. In the Office Action of April 21, 2005, the Examiner asserts that the present application contains claims directed to patentably distinct species and that Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits. In order to comply with the Examiner's assertion that the application contains claims directed to patentably distinct species of the claimed invention, Applicants provisionally elect with traverse, species of claims 148, 149, 153, 155-157, 195, 200, 201, 205, 207-209, and 247 (hereinafter referred to as "Species A") drawn to a method and system for publishing content, properly classified in class 705, subclass 54. In the April 21, 2005, Office Action, the Examiner indicated that claim 147 is generic. Applicants traverse the requirement for election of a species for the following reasons outlined below.

Claims as Presented

Claims 147-196 are directed to a method for publishing content over the Internet, and may be classified properly in class 705, subclass 54. Claim 197 recites a system including devices configured to perform the steps recited in claim 147, while claim 198 recites a computer-readable medium including instructions to cause a computer processor to perform the steps recited in claim 147. Of course, claims 197 and 198 may also be classified in class 705, subclass 54. Additionally, claims 199-248 recite a system for publishing content corresponding to the method recited in at least claim 147. Claims 199-248 may also be classified in class 705, subclass 54. Finally, claim 249 recites an additional computer readable medium claim that similarly corresponds to at least system claim 199.

The recited claims 147-249 are not directed toward distinct species, and instead are closely related and directed to a single embodiment. Claims 147-196 recite a method for publishing content, while claims 197 and 198 recite a system and a computer-readable medium, respectively, used to carry out the method of claim 147. Claims 199-248 recite additional system claims corresponding to the method for publishing content recited by at least claim 147. Additionally, as all of these claims should be classified in class 705, subclass 54, the field of the search is the same for all claims 147-249. Claims 147-195 recite

a method and are written to protect against a would-be infringer from practicing the method of the present invention. Claims 197 and 199-248 recite a system and are written to protect against a would-be infringer from using a system to practice the method of the present invention. Similarly, claims 198 and 249 recite a computer-readable medium encoded with processing instructions and are written to protect against a would-be infringer from distributing a computer program that may facilitate and allow others to practice the method of the present invention.

Species Claims

The Examiner asserts that the present application contains 19 distinct species. Applicants respectfully submit that this characterization is not correct. While the Examiner lists different claim numbers to which the Examiner asserts comprise the different species, claims are never species. See MPEP 806.04(e). The species election requirement is improper on its face since it defines each of the proposed species only in terms of the claims. Claims are definitions of inventions. Claims may be restricted to a single disclosed embodiment, but the Examiner inappropriately defined the species in terms of the claims.

Claims 147-196 include a single embodiment and add additional limitations to the independent claim 147 reciting the method of the exemplary embodiment. Species, on the other hand, are always the specifically different embodiments. See MPEP 806.04(e). Clearly this is not the case with claims 147-196. Similarly, claim 197 recites an exemplary system with which to perform the steps of the method recited in claim 147. Claim 198 also recites a computer readable medium with instructions to cause a processor to perform the method of claim 147.

Claims 199-248 further recite a system configured to carry out the method with additional features and limitations not disclosed by system claim 197. However, claims 199-248 also relate to the same single embodiment. Likewise, claim 249 recites a computer readable medium with instructions for publishing content to perform a method similar to claim 147 while adding additional features and limitations of the same embodiment. As such, Applicants respectfully submit that the election of species requirement is improper. Applicants respectfully request reconsideration and withdrawal of the previous election of species requirement made on claims 147-249.


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Conclusion

The Examiner has not asserted that there are different inventions, nor has the Examiner provided any explanation as to how the proposed species may be divided as listed in the April 21, 2005, Office Action. Claims 147-249 relate to a single embodiment, and are not different species. The Examiner has not provided the required explanation of the above species election criteria, and as such, Applicants respectfully submit that the species election requirement is improper. Applicants respectfully request reconsideration and withdrawal of the previous restriction requirement made on claims 147-249.

As further suggested in the telephone restriction practice outlined in MPEP § 812.01, if the Examiner determines that a further requirement for restriction should be made in the application, Applicants respectfully request that the Examiner contact the Applicants' undersigned representative to facilitate resolution of this matter so that prosecution of the case on the merits may begin.

Respectfully submitted,



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